

# COPY

Page 1 of 2

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/707,039	11/17/2003	Jeffrey W. Seale	38-21(15546)A

27161  
MONSANTO COMPANY  
800 N. LINDBERGH BLVD.  
ATTENTION: G.P. WUELLNER, IP PARALEGAL, (E2NA)  
ST. LOUIS, MO 63167

CONFIRMATION NO. 1038

FORMALITIES LETTER



\*OC000000015996954\*

Date Mailed: 05/12/2005

## NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

*Filing Date Granted*

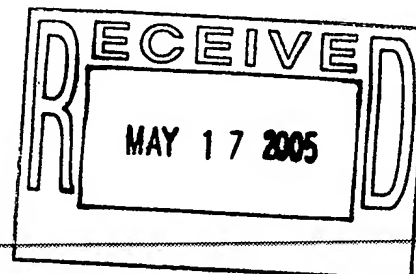
Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

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- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

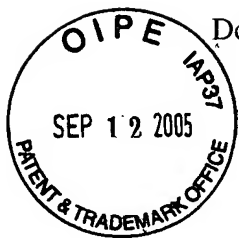
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*A copy of this notice MUST be returned with the reply.*

Phuong Sun  
Office of Initial Patent Examination (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Docket Number 38-21(15546)A

**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE UNDER 37 C.F.R. §1.8

I hereby certify that the documents enclosed herein are being deposited with the United States Postal Service as first class mail on this 7 day of September, 2005 in an envelope addressed to: MAIL STOP MISSING PARTS, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313 -1450.

  
Michelle Ludwig

In re application of:	Seale et al.	)
		) Examiner: Unknown
Serial No.:	10/707,039	)
		) Group Art Unit: Unknown
Filed:	November 17, 2003	)
		) Conf. No. 1038
For:	Amino Acid Sequence Variant Alfalfa	)
	Antifungal Protein And Its Use In Plant	)
	Disease Control	)

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RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

This paper is responsive to the above captioned Notice to Comply with the sequence rules at 37 CFR §§1.821-1.825, mailed on May 12, 2005. The Notice to Comply (hereinafter, "NOTICE") is believed to have been mailed by the Office in error because the Applicant filed the Application electronically using the software provided by the US Patent Office and included an electronic copy of the Sequence Listing in the electronic submission. The Applicant provides a copy of the Electronic Filing Receipt dated November 17, 2003 at 16:27:37 hours Eastern Daylight Savings Time (copy

attached hereto, hereinafter referred to as "RECEIPT")). The RECEIPT, on page 2, at the line labeled "computer-listing", clearly shows that an electronic file named "38-21-15546-13Nov2003.ST25.txt" consisting of 2893 bytes of information in size, was included along with the electronic submission for which the RECEIPT provides the Applicant with Prima Facie evidence that the USPTO received the Sequence Listing file.

Nevertheless, the Applicant herewith provides the USPTO with a 3.5 inch diskette containing a computer readable copy of the Sequence Listing as originally filed electronically on November 17, 2003, along with a paper copy of the Sequence Listing. The Computer Readable copy on 3.5 inch diskette and the Paper Copy of the Sequence Listing are the same, and do not add new matter to the specification as filed.

It is believed that, but for the USPTO's unintentional error in overlooking the fact that the Applicant properly electronically filed the computer readable copy of the Sequence Listing **and** received an electronic confirmation from the USPTO that the computer readable copy of the Sequence Listing was received by the USPTO, the Applicant would not now be required to respond to the Notice to Comply with the Sequence Rules, and therefore would not be required to submit a Petition for a Two Month Extension of Time and would therefore not need to incur the \$450 cost associated with the Petition. Therefore, it is respectfully requested that the Office waive the petition fee and enter the Applicants' response to the Notice to Comply.

In any event, the Office is authorized to deduct the required Petition fee from Monsanto Company Deposit Account No. 13-4125. In view of the anticipated granting of the Petition, it is believed therefore that this paper is timely filed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "T. Ball", written over a horizontal line.

Timothy K. Ball, Ph.D., Esq.  
Reg. No. 42,287  
Monsanto Company  
800 North Lindbergh Boulevard  
Mail Zone E2NA  
St. Louis, Missouri 63167  
(314) 694-5811 (telephone)  
(314) 694-5311 (facsimile)



**UNITED STATES PATENT AND TRADEMARK OFFICE  
ACKNOWLEDGEMENT RECEIPT**

Electronic Version 1.1

Stylesheet Version v1.1.1

**Title of  
Invention**

**Amino Acid Sequence Variant Alfalfa Antifungal Protein and Its Use in  
Plant Disease Control**

**Submission Type:** Utility Patent Filing

**Application Number:** 10/707039

**\*10/707039\***

**EFS ID:** 50772

**Server Response:**

Confirmation Code	Message
ISVR1	Submission was successfully submitted - Even if Informational or Warning Messages appear below, please do not resubmit this application
ICON1	1038
WUTL2	Filename= e15546-pkda.xml BusinessRule= The utility patent submission does not include at least one declaration.
WGEN24	Filename= all XMLs having <invention-title> BusinessRule= Common elements across multiple XML documents within the submission package do not have synchronized data content. #Supporting Msg:<invention-title> not the same or having font format.

**First Named Applicant:** Jeffrey Seale

**Attorney Docket Number:** 38-21(15546)A

**Timestamp:** 2003-11-17 16:27:37 EDT

**From:** us

**File Listing:**

Doc. Name	File Name	Size (Bytes)
us-request	e15546-usrequ.xml	2338
us-request	us-request.dtd	19064
us-request	us-request.xml	33300
us-fee-sheet	e15546-usfees.xml	1670
us-fee-sheet	us-fee-sheet.xml	24912
us-fee-sheet	us-fee-sheet.dtd	11069
application-body	15546A-trans.xml	97787
application-body	us-application-body.xml	83497

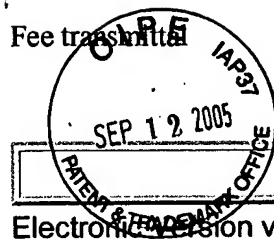
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application-body	wipo.ent	4956
application-body	mathml2.dtd	54588
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application-body	isoamsa.ent	5191
application-body	isoamsb.ent	3988
application-body	isoamsc.ent	1460
application-body	isoamsn.ent	5620
application-body	isoamso.ent	1934
application-body	isoamsr.ent	7073
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application-body	isomopf.ent	2571
application-body	isomscr.ent	4628
application-body	isotech.ent	5268
application-body	isobox.ent	3568
application-body	isocyr1.ent	5345
application-body	isocyr2.ent	2504
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application-body	isolat1.ent	5282
application-body	isolat2.ent	9007
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application-body	isopub.ent	6621
application-body	mmlextra.ent	7901
application-body	mmlalias.ent	38209
application-body	soextblx.dtd	12870
application-body	Table1.tif	11256
application-body	Table2.tif	7796
application-body	Figure1.tif	10600
computer-listing	38-21-15546-13Nov2003.ST25.txt	2893
package-data	e15546-pkda.xml	7046
package-data	package-data.dtd	27025
package-data	us-package-data.xsl	19263
Total files size		626356

Message Digest: 390b70bcf9a66b3178cae70715d763b03469295a

Digital Certificate Holder cn=Timothy Keith Ball,ou=Registered

Name:

Attorneys,ou=Patent and Trademark  
Office,ou=Department of Commerce,o=U.S.  
Government,c=US

**FEE TRANSMITTAL**

Electronic Filing v08  
Stylesheet Version v08.0

<b>Title of Invention</b>	<b>Amino Acid Sequence Variant Alfalfa Antifungal Protein and Its Use in Plant Disease Control</b>																				
Application Number: Date: First Named Applicant: Jeffrey W Seale Attorney Docket Number: 38-21(15546)A																					
<b>TOTAL FEE AUTHORIZED \$1272</b>  Patent fees are subject to annual revisions on or about October 1st of each year.																					
Filing as large entity  <b>BASIC FILING FEE</b>																					
<table border="1"><thead><tr><th>Fee Description</th><th>Fee Code</th><th>Amount \$</th><th>Fee Paid \$</th></tr></thead><tbody><tr><td>Utility Filing Fee</td><td>1001</td><td>770</td><td>770</td></tr><tr><td colspan="4">Subtotal For Basic Filing Fee: \$770</td></tr></tbody></table>		Fee Description	Fee Code	Amount \$	Fee Paid \$	Utility Filing Fee	1001	770	770	Subtotal For Basic Filing Fee: \$770											
Fee Description	Fee Code	Amount \$	Fee Paid \$																		
Utility Filing Fee	1001	770	770																		
Subtotal For Basic Filing Fee: \$770																					
<b>EXTRA CLAIM FEES</b>																					
<table border="1"><thead><tr><th>Fee Description</th><th>Extra Claims</th><th>Fee Code</th><th>Amount \$</th><th>Fee Paid \$</th></tr></thead><tbody><tr><td>Total Claims: 24</td><td>4</td><td>1202</td><td>18</td><td>72</td></tr><tr><td>Independent Claims: 8</td><td>5</td><td>1201</td><td>86</td><td>430</td></tr><tr><td colspan="5">Subtotal For Extra Claims Fees: \$ 502</td></tr></tbody></table>		Fee Description	Extra Claims	Fee Code	Amount \$	Fee Paid \$	Total Claims: 24	4	1202	18	72	Independent Claims: 8	5	1201	86	430	Subtotal For Extra Claims Fees: \$ 502				
Fee Description	Extra Claims	Fee Code	Amount \$	Fee Paid \$																	
Total Claims: 24	4	1202	18	72																	
Independent Claims: 8	5	1201	86	430																	
Subtotal For Extra Claims Fees: \$ 502																					
<b>AUTHORIZED BILLING INFORMATION</b> The commissioner is hereby authorized to charge indicated fees and credit any overpayments to: Deposit account number: 134125 Access Code ****																					

Deposit name: Monsanto Company

Deposit authorized name: Timothy K Ball

Signature: p42287

Date (YYYYMMDD): 2003-11-17

Charge Any Additional Fee Required Under 37 C.F.R. Sections 1.16 and 1.17.